



# House of Representatives

## File No. 840

General Assembly

January Session, 2013

**(Reprint of File No. 781)**

Substitute House Bill No. 6545  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 22, 2013

### **AN ACT CONCERNING MEDICAID DRUG STEP THERAPY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective July 1, 2013*) (a) The Commissioner of  
2       Social Services may establish a step therapy program for prescription  
3       drugs in the Medicaid program. The commissioner may condition  
4       payment for such drugs on a requirement that the drug prescribed be  
5       from the preferred drug list established pursuant to section 17b-274d  
6       of the general statutes prior to any other drug being prescribed,  
7       provided any step therapy program shall: (1) Require that the patient  
8       try and fail on only one prescribed drug on the preferred drug list  
9       before another drug can be prescribed and eligible for payment; (2) not  
10      apply to any mental health-related drugs; and (3) require that the  
11      prescribing practitioner, when medications for the treatment of any  
12      medical condition are restricted due to the step therapy program, has  
13      access to a clear and convenient process to expeditiously request an  
14      override of such restriction from the Department of Social Services.  
15      The department shall expeditiously grant an override of such  
16      restriction whenever the prescribing practitioner demonstrates that:

17 (A) The preferred treatment required under step therapy has been  
18 ineffective in the treatment of the patient's medical condition in the  
19 past; (B) the drug regimen required under the step therapy program is  
20 expected to be ineffective based on the known relevant physical or  
21 mental characteristics of the patient and the known characteristics of  
22 the drug regimen; (C) the preferred treatment required under the step  
23 therapy program will cause or will likely cause an adverse reaction or  
24 other physical harm to the patient; or (D) it is in the best interest of the  
25 patient to provide the recommended drug regimen based on medical  
26 necessity.

27 (b) The duration of any step therapy program requirement shall not  
28 be longer than a period of thirty days, after which time the prescribing  
29 practitioner may deem such treatment as clinically ineffective for the  
30 patient. When the prescribing practitioner deems the treatment to be  
31 clinically ineffective, the drug prescribed and recommended by the  
32 practitioner shall be dispensed and covered under the Medicaid  
33 program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Social Services, Dept.	GF - Savings	11.8 million	15.8 million

**Municipal Impact:** None

**Explanation**

The bill results in a savings of approximately \$11.8 million in FY 14 and \$15.8 million in FY 15 associated with the Department of Social Services establishing a step therapy program for prescription drugs under Medicaid. Savings identified in the bill are included in sHB 6350, the FY 14 and FY 15 budget bill, as favorably reported by the Appropriations Committee.

House "A" changes the duration of the step therapy requirement from seven to thirty days and makes other minor changes, which does not result in a fiscal impact.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 6545 (as amended by House "A")\******AN ACT CONCERNING MEDICAID DRUG STEP THERAPY.*****SUMMARY:**

This bill authorizes the Department of Social Services (DSS) commissioner to establish a step therapy program for prescription drugs dispensed to Medicaid recipients. (The bill does not define step therapy.) Under the program, DSS may condition Medicaid payments to pharmacies on a patient first trying a drug that is on DSS's preferred drug list (PDL) for 30 days. Under the bill, the step therapy program must:

1. require that the patient try and fail on only one drug on the PDL before another one can be prescribed and be eligible for DSS payment (presumably the other drug would not have to be on the PDL),
2. not apply to any mental health-related drugs, and
3. give the prescriber access to a clear and convenient process to expeditiously request DSS to override the step therapy drug under certain circumstances.

The bill requires DSS to grant an override of the step therapy drug restriction if certain conditions exist. It (1) permits the prescriber to deem the treatment clinically ineffective after the seven days and (2) requires Medicaid to pay for the drug the prescriber prescribes and recommends instead when this occurs.

It appears that the state's prior authorization law would require a pharmacist to dispense, and DSS to reimburse, a 14-day supply of a

non-preferred drug when a prescriber has requested an override of the step therapy drug but a decision to grant has not be made by the time the patient is ready to leave the pharmacy (see BACKGROUND).

\*House Amendment "A" (1) increases from seven to 30 days the duration of the drug trial period, (2) eliminates the step therapy exemption for maintenance drugs, (3) requires DSS to grant an override if just one of the conditions exist instead of all of them, and (4) makes a technical change.

EFFECTIVE DATE: July 1, 2013

### **CONDITIONS FOR OVERRIDING STEP THERAPY RESTRICTIONS**

The bill requires DSS to expeditiously grant an override of the step therapy restriction if the prescriber demonstrates that the step therapy drug:

1. has been ineffective in treating the patient's medical condition in the past (presumably the same medical condition) or is expected to be ineffective based on the (a) patient's known relevant physical or mental characteristics and (b) drug regimen's known characteristics,
2. will cause or will likely cause an adverse reaction or other physical harm to the patient, or
3. is not in the patient's best interest to provide the recommended drug regimen based on medical necessity.

### **BACKGROUND**

#### ***Preferred Drug List (PDL)***

By law, DSS maintains a PDL, which is a list of drugs for which DSS will reimburse pharmacists when they dispense the drugs to Medicaid recipients. By law, if a practitioner prescribes a drug that is not on the PDL, the pharmacist must receive prior authorization from DSS before it can be paid for dispensing the drug. Prior authorization is not required for any mental health-related drug that has been filled or

refilled, in any dosage, at least once in the previous year. When prior authorization is granted, it is valid for one year from when the drug is filled. (By law, drugs used to treat AIDS and AIDS-related illness may not be on the PDL (CGS § 17b-274d(f).)

If prior authorization is required and the pharmacist is unable to obtain the prescriber's authorization at the time the prescription is presented, the law requires the pharmacist to dispense a one-time 14-day supply. By law, DSS issues a flier to pharmacies to distribute to Medicaid recipients, letting them know that they need to contact the prescriber to get the full amount of the non-preferred drug (CGS § 17b-491a).

### **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute Change of Reference  
Yea 18 Nay 0 (04/02/2013)

Appropriations Committee

Joint Favorable Substitute  
Yea 52 Nay 0 (04/22/2013)